

FORTY-SECOND DAY
(Wednesday, March 25, 1981)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Leedom, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

(President Pro Tempore Traeger in Chair)

A quorum was announced present.

The Most Reverend Vincent M. Harris, Diocese of Austin, offered the invocation as follows:

Let us pray.

Lord God, Heavenly Father, in ancient times You taught Your people to be merciful to prisoners and strangers. And as Your Divine Son hung on the cross of salvation He gave us an example not only of mercy toward wrongdoers, but of entire forgiveness toward the repentant and the rehabilitated when he turned toward the thief Dismas with the words of salvation, "Today thou shalt be with me in Paradise."

And so we beseech You, Father of us all, to inspire us with Your Spirit, that we too may be merciful and forgiving to those who have offended us.

We ask this in the Name of the forgiving Lord. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

House Chamber
March 25, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 3, Relating to creation of a committee to study laws about the conduct of public servants.

H.B. 1054, Relating to transferring the authority to issue permit to manufacture industrial alcohol from the Alcoholic Beverage Commission to the Railroad Commission.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

REPORTS OF STANDING COMMITTEES

Senator Blake submitted the following report for the Committee on Administration:

S.C.R. 67
S.C.R. 66
S.C.R. 55
H.C.R. 20
S.C.R. 69

Senator Traeger submitted the following report for the Committee on Intergovernmental Relations:

S.B. 747
S.B. 687
S.B. 822
S.B. 850
S.B. 1122
C.S.S.B. 502 (Read first time)
C.S.S.B. 462 (Read first time)
C.S.S.B. 561 (Read first time)
C.S.S.B. 815 (Read first time)
C.S.S.B. 759 (Read first time)

Senator Mauzy submitted the following report for the Committee on Jurisprudence:

S.B. 755
S.B. 856
S.B. 922
S.B. 780
S.B. 570
S.B. 269
S.B. 556
C.S.S.B. 729 (Read first time)
C.S.S.B. 126 (Read first time)
C.S.S.B. 368 (Read first time)
C.S.S.B. 643 (Read first time)
C.S.S.B. 460 (Read first time)

Senator McKnight submitted the following report for the Subcommittee on Nominations:

We, your Subcommittee on Nominations, to which were referred the following appointments, have had same under consideration, and beg to report them back to the Senate for final consideration.

To be a Member of the UPPER NECHES RIVER MUNICIPAL WATER AUTHORITY: Gordon B. Broyles, Anderson County.

To be Members of the TEXAS BOARD OF PRIVATE INVESTIGATORS AND PRIVATE SECURITY AGENCIES: George A. Smith, Jr., Dallas County; Dale O. Simpson, Dallas County; The Reverend Harold R. King, Tarrant County.

To be Members of the TEXAS BOARD OF HEALTH: Dr. Joaquin Gonzales Cigarroa, Jr., Webb County; Mrs. Barbara T. Slover, Tarrant County.

To be a Member of the BOARD OF REGENTS - TEXAS SOUTHERN UNIVERSITY: Maurice Lee Barksdale, Tarrant County.

To be Members of the BOARD OF REGENTS - EAST TEXAS STATE UNIVERSITY: Dr. Gene Wesley Hightower, Van Zandt County; W. Ben Munson III, Grayson County; Mrs. Peggy M. Wilson, Dallas County.

To be Members of the SABINE RIVER AUTHORITY OF TEXAS: L. E. "Red" Davis, Sabine County; Olin Valery Joffrion, Panola County; William Y. Rice, Gregg County.

To be a Member of the TEXAS COASTAL AND MARINE COUNCIL: George S. Hawn, Nueces County.

To be a Member of the TEXAS BOARD OF HEALTH: Dr. Bob D. Glaze, Upshur County.

To be a Member of the BOARD OF REGENTS - TEXAS TECH UNIVERSITY: John E. Birdwell, Jr., Lubbock County.

To be a Member of the STATE PURCHASING AND GENERAL SERVICES COMMISSION: Henry C. Wendler, Dallas County.

To be Members of the BOARD OF DIRECTORS - NUECES RIVER AUTHORITY: Eugene L. Ames, Jr., Bexar County; George T. Jambers, McMullen County; Harry J. Schulz, Sr., Live Oak County.

(President in Chair)

SENATE BILLS ON FIRST READING

On motion of Senator Mengden and by unanimous consent, the following bills were introduced, read first time and referred to the Committee indicated:

S.B. 1138 by Brooks Jurisprudence
Relating to the appointment and the rights, privileges, duties, and powers of a managing conservator; amending the Family Code, as amended, by amending or adding to Title 2, Family Code, Subsection (b), (c), and (e) of Section 14.02, and Subsection (b) of Section 15.05; providing an effective date; and declaring an emergency.

S.B. 1140 by Mengden State Affairs
Relating to the procedure for paying election judges and clerks in certain elections.

S.B. 1141 by Mengden Intergovernmental Relations
Relating to the authority of the commissioners courts of certain counties to contract for the destruction of bonds, interest coupons, or other evidences of indebtedness issued and paid by the counties.

S.B. 1142 by Mengden Intergovernmental Relations
Relating to the authority of the commissioners courts of certain counties to invest county funds in obligations of the United States.

S.B. 1143 by Mengden

Education

Relating to school district procedures for protection of the health and safety of students, parents, and school personnel.

S.B. 1144 by Santiesteban

Human Resources

Relating to the use of tetrahydrocannabinols and their derivatives for therapeutic and research purposes; amending the Texas Controlled Substances Act, as amended (Article 4476-15, Vernon's Texas Civil Statutes); providing certain exemptions for state participants of certain federally approved therapeutic research programs; amending Subsection 3.01(e); adding Subsection 3.03(g) and Section 4.13; amending Subchapter 7 to provide for the elective administration of a Controlled Substances Therapeutic Research Program by the Texas Board of Health; repealing Section 4, Chapter 826, Acts of the 66th Legislature, 1979, relating to the Texas Food, Drug and Cosmetic Act, as amended (Article 4476-5, Vernon's Texas Civil Statutes); and declaring an emergency.

HOUSE BILL ON FIRST READING

The following bill received from the House was read the first time and referred to the Committee indicated:

H.B. 1663, To Committee on Natural Resources.

MOTION IN WRITING

I hereby request by unanimous consent that my name be withdrawn as a co-sponsor of **S.B. 1032**.

GLASGOW

NOTICE OF CONSIDERATION OF NOMINATIONS

Senator McKnight gave notice that he would tomorrow at the conclusion of Morning Call submit to the Senate for consideration nominations to agencies, boards and commissions of the State.

CO-AUTHOR OF SENATE BILL 821

On motion of Senator Ogg and by unanimous consent, Senator Doggett will be shown as Co-author of **S.B. 821**.

BILLS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills:

S.B. 196

S.B. 49

SENATE CONCURRENT RESOLUTION 77

Senator Harris offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, the House of Representatives concurring, That the House of Representatives and the Senate

meet in Joint Session in the Hall of the House of Representatives at 3 p.m., Monday, March 30, 1981; and, be it further

RESOLVED, That His Excellency, George Bush, Vice-President of the United States of America, be, and is hereby, invited to address the Regular Session of the 67th Legislature in Joint Session at this time.

The resolution was read.

On motion of Senator Harris and by unanimous consent, the resolution was considered immediately and was adopted.

SENATE CONCURRENT RESOLUTION 78

Senator Brooks offered the following resolution:

BE IT RESOLVED by the Senate of the 67th Legislature, the House of Representatives concurring, That in compliance with Article III, Section 17, of the Constitution of the State of Texas and in order to conduct outreach hearings on redistricting, either House is hereby granted permission to adjourn from Wednesday, April 1 to Monday, April 6, 1981, Wednesday, April 8 to Monday, April 13, 1981, and Wednesday, April 22 to Monday, April 27, 1981.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted.

CONFERENCE COMMITTEE REPORT SENATE BILL 306

Senator Sarpalius submitted the following Conference Committee Report:

Austin, Texas
March 24, 1981

Honorable William P. Hobby
President of the Senate

Honorable Bill Clayton
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on S.B. 306 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

SARPALIUS
MEIER
FARABEE
MENGDEN
On the part of the Senate

ALLEE
GREEN
KUBIAK
COODY

KELLER

On the part of the House

CONFERENCE COMMITTEE REPORT SENATE BILL 306

A BILL TO BE ENTITLED
AN ACT

relating to alcoholic beverage regulations relating to age.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 11.46(a), Alcoholic Beverage Code, as amended, is amended to read as follows:

(a) The commission or administrator may refuse to issue an original or renewal permit with or without a hearing if it has reasonable grounds to believe and finds that any of the following circumstances exists:

(1) the applicant has been convicted in a court of competent jurisdiction of the violation of any provision of this code during the two years immediately preceding the filing of his application;

(2) three years have not elapsed since the termination, by pardon or otherwise, of a sentence imposed on the applicant for the conviction of a felony;

(3) within the six-month period immediately preceding his application the applicant violated or caused to be violated a provision of this code or a rule or regulation of the commission which involves moral turpitude, as distinguished from a technical violation of this code or of the rule;

(4) the applicant failed to answer or falsely or incorrectly answered a question in an original or renewal application;

(5) the applicant is indebted to the state for any taxes, fees, or payment of penalty imposed by this code or by rule of the commission;

(6) the applicant is not of good moral character or his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad;

(7) the applicant is less than 19 [18] years of age;

(8) the place or manner in which the applicant may conduct his business warrants the refusal of a permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(9) the applicant is in the habit of using alcoholic beverages to excess or is physically or mentally incapacitated;

(10) the applicant will sell liquor unlawfully in a dry area or in a manner contrary to law or will knowingly permit an agent, servant, or employee to do so;

(11) the applicant is not a United States citizen or has not been a citizen of Texas for a period of three years immediately preceding the filing of his application, unless he was issued a permit or renewal permit on or before September 1, 1948, and has at some time been a United States citizen;

(12) the applicant does not have an adequate building available at the address for which the permit is sought;

(13) the applicant is residentially domiciled with a person whose permit or license has been cancelled for cause within the 12 months immediately preceding the date of his present application;

(14) the applicant has failed or refused to furnish a true copy of his application to the commission's district office in the district in which the premises for which the permit is sought are located; or

(15) during the six months immediately preceding the filing of the application the premises for which the permit is sought have been operated, used, or frequented for a purpose or in a manner that is lewd, immoral, or offensive to public decency.

SECTION 2. Section 39.31, Alcoholic Beverage Code, is amended to read as follows:

Sec. 39.31. SALES TO MINORS. No holder of a medicinal permit or any of his agents or employees may sell or dispense any liquor to a person under 19 [18] years of age unless that minor presents with his prescription the written consent of his parent or guardian. The person making the sale shall file the written consent with the prescription.

SECTION 3. Section 40.05, Alcoholic Beverage Code, is amended to read as follows:

Sec. 40.05. PROHIBITED ACTIVITIES. No physician may:

- (1) prescribe liquor for any purpose unless he holds a physician's permit;
- (2) prescribe liquor for other than medicinal purposes;
- (3) issue prescriptions for liquor to any person without first making a physical examination of the patient to determine the disease or ailment afflicting him;
- (4) issue a prescription which does not contain all the information required by this chapter written in the English language;
- (5) accept any sort of compensation or guarantee as to income or material benefit from a holder of a medicinal permit for writing a prescription;
- (6) prescribe more than one pint of liquor for a person in any one day;
- (7) prescribe liquor for any person showing evidence of intoxication;
- (8) prescribe liquor for any person under any name other than the true name of the person for whom the liquor is intended;
- (9) prescribe liquor for any person under the age of 19 [18] years unless he has the written consent of the person's parent or guardian;
- (10) issue more than 100 prescriptions for liquor in any period of 90 days, beginning from the date designated by the physician in any order for prescription forms placed with the commission;
- (11) fail or refuse to make and keep for a period of two years any record of prescriptions issued for liquor as required by the commission;
- (12) fail to make reports required by the commission; or
- (13) fail to divulge information or produce records of the issuance of prescriptions when requested to do so by a representative of the commission or by any peace officer or any county or district attorney.

SECTION 4. Section 61.42(a), Alcoholic Beverage Code, as amended, is amended to read as follows:

(a) The county judge shall refuse to approve an application for a license as a distributor or retailer if he has reasonable grounds to believe and finds that:

- (1) the applicant is under 19 [18] years of age;
- (2) the applicant is indebted to the state for any taxes, fees, or penalties imposed by this code or by rule of the commission;
- (3) the place or manner in which the applicant for a retail dealer's license may conduct his business warrants a refusal of a license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;
- (4) the applicant is in the habit of using alcoholic beverages to excess or is mentally or physically incompetent;

(5) the applicant is not a United States citizen or has not been a citizen of Texas for a period of three years immediately preceding the filing of his application, unless he was issued an original or renewal license on or before September 1, 1948;

(6) the applicant was finally convicted of a felony during the two years immediately preceding the filing of his application;

(7) the applicant is not of good moral character or his reputation for being a peaceable, law-abiding citizen in the community where he resides is bad; or

(8) as to a corporation, it is not incorporated under the laws of this state, or at least 51 percent of the corporate stock is not owned at all times by persons who individually are qualified to obtain a license, except that this subdivision does not apply to a holder of any renewal of a distributor's license which was in effect on January 1, 1953, or to an applicant for a beer retailer's on-premise license for a railway car.

SECTION 5. Section 61.71(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) made a false statement or a misrepresentation in his original application or a renewal application;

(5) knowingly sold, served, or delivered beer to a person under 19 [~~18~~] years of age;

(6) sold, served, or delivered beer to a person showing evidence of intoxication;

(7) sold, served, or delivered beer at a time when its sale is prohibited;

(8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;

(9) possessed on the licensed premises, or on adjacent premises directly or indirectly under his control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section 22.06, 24.05, or 102.05 of this code;

(10) does not have at his licensed premises running water, if it is available, and separate toilets for both sexes which are properly identified;

(11) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;

(12) employed a person under 18 years of age to sell, handle, or dispense beer, or to assist in doing so, in an establishment where beer is sold for on-premises consumption;

(13) conspired with a person to violate Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule promulgated under Section 5.40 of this code, or accepted a benefit from an act prohibited by any of those sections or rules;

(14) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;

(15) permitted the use or display of his license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;

(16) maintained blinds or barriers at his place of business in violation of this code;

(17) conducted his business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;

(18) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;

(19) purchased beer for the purpose of resale from a person other than the holder of a manufacturer's or distributor's license;

(20) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;

(21) owned an interest of any kind in the business or premises of the holder of a distributor's license;

(22) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while his license was under suspension;

(23) purchased, possessed, stored, sold, or offered for sale beer in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;

(24) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(25) imported beer into this state except as authorized by Section 107.07 of this code;

(26) occupied premises in which the holder of a manufacturer's or distributor's license had an interest of any kind;

(27) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(28) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by his license, except as permitted by Section 22.06, 24.05, or 102.05 of this code;

(29) is residually domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section 22.06, 24.05, or 102.05 of this code, so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) is residually domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code.

SECTION 6. Section 61.74(a), Alcoholic Beverage Code, as amended, is amended to read as follows:

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal general, local, or branch distributor's license if it is found, after notice and hearing, that the licensee:

(1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;

(2) was finally convicted for violating a penal provision of this code;

(3) was finally convicted of a felony while holding an original or renewal license;

(4) violated Section 101.41-101.43, 101.68, 102.11-102.15, 104.04, 108.01, or 108.04-108.06 of this code, or a rule or regulation promulgated under Section 5.40 of this code;

(5) failed to comply with a requirement of the commission relating to the keeping of records or making of reports;

(6) failed to pay any tax due the state on any beer he sold, stored, or transported;

(7) refused to permit or interfered with an inspection of his licensed premises, vehicles, books, or records by an authorized representative of the commission;

(8) consummated a sale of beer outside the county or counties in which he was authorized to sell beer by his license;

(9) purchased, sold, offered for sale, distributed, or delivered beer while his license was under suspension;

(10) permitted the use of his license in the operation of a business conducted for the benefit of a person not authorized by law to have an interest in the business;

(11) made a false or misleading representation or statement in his original application or a renewal application;

(12) habitually uses alcoholic beverages to excess, is mentally incompetent, or is physically unable to manage his establishment;

(13) misrepresented any beer sold by him to a retailer or to the public;

(14) knowingly sold or delivered beer to a person under 19 [18] years of age; or

(15) purchased, possessed, stored, sold, or offered for sale beer in an original package bearing a brand or trade name of a manufacturer other than the brand or trade name of the manufacturer shown on the container.

SECTION 7. Sections 71.03(c) and (d), Alcoholic Beverage Code, are amended to read as follows:

(c) The sale of beer by a holder of a retail dealer's off-premise license who also holds a package store permit is subject to the same restrictions and penalties governing the sale of liquor by package stores with regard to:

(1) the hours of sale and delivery;

(2) blinds and barriers;

(3) employment of ~~[or sales and deliveries to]~~ persons under the age of 18 or sales and deliveries to minors;

(4) sales and deliveries on Sunday; and

(5) advertising.

(d) The sale of beer by a holder of a retail dealer's off-premise license who also holds a wine only package store permit is subject to the same restrictions and penalties governing the sale of liquor by package stores with regard to:

(1) blinds and barriers;

(2) employment of ~~[or sales and deliveries to]~~ persons under the age of 18 or sales and deliveries to minors;

- (3) delivery to the licensee or permittee on Sunday; and
- (4) advertising.

SECTION 8. Section 106.01, Alcoholic Beverage Code, is amended to read as follows:

Sec. 106.01. DEFINITION. In this code [~~chapter~~], "minor" means a person under 19 [~~18~~] years of age.

SECTION 9. Section 106.03(b), Alcoholic Beverage Code, is amended to read as follows:

(b) A person who sells a minor an alcoholic beverage does not commit an offense if the minor falsely represents himself to be 19 [~~18~~] years old or older by displaying an apparently valid Texas driver's license containing a physical description consistent with his appearance for the purpose of inducing the person to sell him an alcoholic beverage.

SECTION 10. Section 106.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A minor commits an offense if he falsely states that he is 19 [~~18~~] years of age or older or presents any document that indicates he is 19 [~~18~~] years of age or older to a person engaged in selling or serving alcoholic beverages.

SECTION 11. Section 106.09(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Except as provided in Subsections (b) and (c) of this section, no person may employ a person under 18 years of age [~~minor~~] to sell, prepare, serve, or otherwise handle liquor, or to assist in doing so.

SECTION 12. Section 106.09(c), Alcoholic Beverage Code, is amended to read as follows:

(c) A holder of a mixed beverage permit may employ a person under 18 years of age [~~minor~~] to work in any capacity other than the actual selling, preparing, or serving of mixed beverages.

SECTION 13. Section 106.12(a), Alcoholic Beverage Code, is amended to read as follows:

(a) Any person convicted of not more than one violation of this code while a minor, on attaining the age of 19 [~~18~~] years, may apply to the court in which he was convicted to have the conviction expunged.

SECTION 14. Section 107.07(a), Alcoholic Beverage Code, is amended to read as follows:

(a) A Texas resident may import not more than one quart of liquor for his own personal use without being required to hold a permit. A nonresident of Texas may import not more than a gallon of liquor for his own personal use without being required to hold a permit. A person importing liquor into the state under this subsection must pay the state tax on liquor and affix the required tax stamps. No person under the age of 19 [~~18~~] years and no intoxicated person may import any liquor into the state.

SECTION 15. Section 109.53, Alcoholic Beverage Code, is amended to read as follows:

Sec. 109.53. CITIZENSHIP OF PERMITTEE; CONTROL OF PREMISES; SUBTERFUGE OWNERSHIP; ETC. No person who has not been a citizen of Texas for a period of three years immediately preceding the filing of his application therefor shall be eligible to receive a permit under this code. No permit except a brewer's permit, and such other licenses and permits as are necessary to the operation of a brewer's permit, shall be issued to a corporation unless the same be incorporated under the laws of the state and unless at least 51 percent of the stock of the corporation is owned at all times by citizens who have resided within the state for a period of three years and who possess the qualifications required of other applicants for permits; provided,

however, that the restrictions contained in the preceding clause shall not apply to domestic or foreign corporations that were engaged in the legal alcoholic beverage business in this state under charter or permit prior to August 24, 1935. Partnerships, firms, and associations applying for permits shall be composed wholly of citizens possessing the qualifications above enumerated. Any corporation (except carrier) holding a permit under this code which shall violate any provisions hereof, or any rule or regulation promulgated hereunder, shall be subject to forfeiture of its charter and it shall be the duty of the attorney general, when any such violation is called to his attention, to file a suit for such cancellation in a district court of Travis County. Such provisions of this section as require Texas citizenship or require incorporation in Texas shall not apply to the holders of agent's, industrial, medicinal and carrier's permits. No person shall sell, warehouse, store or solicit orders for any liquor in any wet area without first having procured a permit of the class required for such privilege, or consent to the use of or allow his permit to be displayed by or used by any person other than the one to whom the permit was issued. It is the intent of the legislature to prevent subterfuge ownership of or unlawful use of a permit or the premises covered by such permit; and all provisions of this code shall be liberally construed to carry out this intent, and it shall be the duty of the commission or the administrator to provide strict adherence to the general policy of preventing subterfuge ownership and related practices hereinafter declared to constitute unlawful trade practices. No applicant for a package store permit or a renewal thereof shall have authority to designate as "premise" and the commission or administrator shall not approve a lesser area than that specifically defined as "premise" in Section 11.49(a) of this code. Every permittee shall have and maintain exclusive occupancy and control of the entire licensed premises in every phase of the storage, distribution, possession, and transportation and sale of all alcoholic beverages purchased, stored or sold on the licensed premises. Any device, scheme or plan which surrenders control of the employees, premises or business of the permittee to persons other than the permittee shall be unlawful. No person under the age of 19 [18] years, unless accompanied by his or her parent, guardian, adult husband or adult wife, or other adult person into whose custody he or she has been committed for the time by some court, shall knowingly be allowed on the premises of the holder of a package store permit. The prohibition against the presence of a person under the age of 19 years on the premises of the holder of a package store permit does not apply to the presence on the premises of the holder or a person lawfully employed by the holder. Any package store permittee who shall be injured in his business or property by another package store permittee by reason of anything prohibited in this section may institute suit in any district court in the county wherein the violation is alleged to have occurred to require enforcement by injunctive procedures and/or to recover threefold the damages by him sustained; plus costs of suit including a reasonable attorney's fee. The provision prohibiting the licensing of only a portion of a building as premise for a package store permit shall not apply to hotels as already defined in this code.

SECTION 16. Chapter 626, Acts of the 63rd Legislature, Regular Session, 1973 (Article 5923b, Vernon's Texas Civil Statutes), is amended by adding Section 3 to read as follows:

Sec. 3. To the extent that the Alcoholic Beverage Code conflicts with this Act, the code prevails.

SECTION 17. This Act does not affect the eligibility of a person who holds a license or permit on the effective date of this Act to continue to hold the license or permit and to continue to engage in the activities authorized by the license or permit until the expiration of the license or permit.

SECTION 18. Section 106.03, Alcoholic Beverage Code, is amended by adding Subsection (e) to read as follows:

(e) A person is presumed to have knowingly sold an alcoholic beverage to a minor in violation of Subsection (a) of this section if the person:

- (1) sold the beverage to a person who was a minor, and,
- (2) failed to require the minor to present a valid drivers license, military identification card, or similar proof of age, and
- (3) a reasonable person would have been aware from the appearance of the minor that the minor was under age.

SECTION 19. This Act takes effect September 1, 1981.

SECTION 20. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The Conference Committee Report was read and was filed with the Secretary of the Senate.

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Subcommittee on Nominations:

Austin, Texas
March 25, 1981

TO THE SENATE OF THE SIXTY-SEVENTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

TO BE A MEMBER OF THE FAMILY FARM ADVISORY COUNCIL:

For a six-year term to expire January 31, 1987:

KENNETH IRWIN of Gruver, Hansford County, is being reappointed. (Officer of Commercial Lending Institution)

ERISTUS SAMS of Waller, Waller County, is being reappointed. (General Farmer)

TO BE A MEMBER OF THE TEXAS BOARD OF OPTOMETRY:

For a six-year term to expire January 31, 1987:

JOHN W. DAVIS of Dallas, Dallas County, is being reappointed.

TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LOWER COLORADO RIVER AUTHORITY:

For a six-year term to expire January 1, 1987:

JOHN KENNETH DIXON of Sunrise Beach, Llano County, is replacing Milton C. Dalchau of Llano, Llano County, whose term expired.

Respectfully submitted,

William P. Clements, Jr.
Governor of Texas

MOTION TO PLACE SENATE BILL 264 ON SECOND READING

Senator Mengden moved to suspend the regular order of business to take up for consideration at this time:

S.B. 264, Relating to membership in, or payment of a thing of value to, a labor organization as a condition of employment. (Submitted by Governor as an emergency)

The motion was lost by the following vote: Yeas 18, Nays 12. (Not receiving two-thirds vote of Members present)

Yeas: Andujar, Blake, Brown, Farabee, Glasgow, Harris, Howard, Jones, Leedom, Meier, Mengden, Ogg, Richards, Sarpalius, Short, Snelson, Traeger, Travis.

Nays: Brooks, Caperton, Doggett, Kothmann, Mauzy, McKnight, Parker, Santiesteban, Truan, Uribe, Vale, Williams.

Absent: Wilson.

(Senator Brooks in Chair)

SENATE BILL 1020 ON SECOND READING

Senator Farabee asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

S.B. 1020, Relating to appropriations to the Coordinating Board, Texas College and University System.

There was objection.

Senator Farabee then moved to suspend the regular order of business and take up **S.B. 1020** for consideration at this time.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Mauzy, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Uribe, Vale, Williams, Wilson.

Nays: Blake, Leedom, McKnight.

Absent: Andujar, Truan.

The bill was read second time and was passed to engrossment.

(President in Chair)

SENATE BILL 1020 ON THIRD READING

Senator Farabee moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 1020** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Howard, Jones, Kothmann, Mauzy, McKnight, Meier, Mengden, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Uribe, Vale, Williams, Wilson.

Nays: Blake, Leedom.

Absent: Andujar, Truan.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 2. (Same as previous roll call)

COMMITTEE SUBSTITUTE SENATE BILL 319 ON SECOND READING

On motion of Senator Short and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 319, Relating to the definition of "mobile home" and "conventional home" in the Texas Manufactured Housing Standards Act.

The bill was read second time.

Senator Short offered the following amendment to the bill:

Amend Committee Substitute to Senate Bill No. 319 by striking all below the enacting clause and substituting in lieu thereof the following:

SECTION 1. Section 3, Texas Manufactured Housing Standards Act, as amended (Article 5221f, Vernon's Texas Civil Statutes), is amended by amending Subsections (a) and (q) to read as follows:

(a) "Mobile home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty ~~(and is 32)~~ body feet or more in length, or, when erected on site, is three hundred twenty or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(q) "Modular home" means a dwelling that is manufactured in two or more modules at a location other than the homesite and which is designed to be used as a residence when the modules are transported to the homesite, and the modules are joined together and installed on a permanent foundation system. The term includes the plumbing, heating, air conditioning and electrical systems contained in the structure. It is expressly provided, however, that the term modular home shall not mean nor apply to, and that the following items are expressly excluded from the purview of this Article: (i) sectional or panelized housing in which the basic components assembled at the homesite are not at least three dimensional modules; (ii) a ready built home which is constructed so that the entire living area is contained in a single unit or section at a temporary location for the purpose of selling it and moving it to another location; and (iii) a home constructed in modules incorporating concrete or masonry as the primary structural component. (structure or building module that is manufactured at a location other than the location where it is installed and used

~~as a residence by a consumer, transportable in one or more sections on a temporary chassis or other conveyance device, and designed to be used as a permanent dwelling when installed and placed upon a permanent foundation system. The term includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. The term does not include a mobile home as defined in this Act, nor does it include building modules incorporating concrete or masonry as the primary structural component.)~~

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted.

On motion of Senator Short and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 319 ON THIRD READING

Senator Short moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 319** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

SENATE BILL 836 ON SECOND READING

On motion of Senator Caperton and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 836, Relating to the effect of conviction of a misdemeanor when probation is granted.

The bill was read second time and was passed to engrossment.

SENATE BILL 836 ON THIRD READING

Senator Caperton moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 836** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 654 ON SECOND READING

Senator McKnight moved to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 654, Relating to the examination powers of the comptroller of public accounts.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Kothmann, Mauzy, McKnight, Ogg, Parker, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams.

Nays: Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Wilson.

The bill was read second time and was passed to engrossment by the following vote: Yeas 24, Nays 7.

Yeas: Andujar, Blake, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Kothmann, Mauzy, McKnight, Ogg, Parker, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams.

Nays: Howard, Jones, Leedom, Meier, Mengden, Richards, Wilson.

MOTION TO PLACE**COMMITTEE SUBSTITUTE SENATE BILL 654 ON THIRD READING**

Senator McKnight moved to suspend the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **C.S.S.B. 654** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 22, Nays 9. (Not receiving four-fifths vote of Members present)

Yeas: Andujar, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Kothmann, Mauzy, McKnight, Ogg, Parker, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams.

Nays: Blake, Harris, Howard, Jones, Leedom, Meier, Mengden, Richards, Wilson.

SENATE BILL 537 ON SECOND READING

Senator Wilson moved to suspend the regular order of business to take up for consideration at this time:

S.B. 537, Relating to computation of benefits for certain retirees of the Judicial Retirement System of Texas and their survivors.

The motion prevailed by the following vote: Yeas 24, Nays 7.

Yeas: Andujar, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Kothmann, Mauzy, McKnight, Meier, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Blake, Harris, Howard, Jones, Leedom, Mengden, Traeger.

The bill was read second time and was passed to engrossment by the following vote: Yeas 24, Nays 7. (Same as previous roll call)

SENATE BILL 537 ON THIRD READING

Senator Wilson moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 537 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

Yeas: Andujar, Brooks, Brown, Caperton, Doggett, Farabee, Glasgow, Harris, Kothmann, Mauzy, McKnight, Meier, Ogg, Parker, Richards, Santiesteban, Sarpalius, Short, Snelson, Traeger, Travis, Truan, Uribe, Vale, Williams, Wilson.

Nays: Blake, Howard, Jones, Leedom, Mengden.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

MESSAGE FROM THE HOUSE

House Chamber
March 25, 1981

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 596, Relating to the creation or reorganization of certain judicial districts and to the creation, duties, and compensation of prosecuting attorneys for certain districts. (With amendments)

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

MEMORIAL RESOLUTIONS

S.R. 405 - By Short: Memorial resolution for Clifford H. Andrews.

S.R. 408 - By Vale: Memorial resolution for Mary Lou Sfair.

S.R. 410 - By Brooks: Memorial resolution for Dr. J. Don Boney.

WELCOME AND CONGRATULATORY RESOLUTIONS

S.C.R. 76 - By Blake: Commending C. O. "Pete" Dodson.